

<p>Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address</p> <p>Steven A. Alpert (SBN 159730) PRICE LAW GROUP, APC 15760 Ventura Blvd., Suite 1100 Encino, CA 91436 (818) 995-4540 Telephone (818) 995-9277 Facsimile email: alpert@pricelawgroup.com</p> <p><input checked="" type="checkbox"/> Attorney for Debtor(s) <input type="checkbox"/> Debtor(s) appearing without attorney</p>	<p>FOR COURT USE ONLY</p> <div style="border: 1px solid black; padding: 10px; text-align: center;"><p>FILED & ENTERED</p><p>OCT 31 2012</p><p>CLERK U.S. BANKRUPTCY COURT Central District of California BY beauchan DEPUTY CLERK</p></div> <p>CHANGES MADE BY COURT</p>
<p>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA –LOS ANGELES DIVISION</p>	
<p>In re:</p> <p>JUAN GABRIEL ROSAS and MARTHA FABIOLA ROSAS</p> <p style="text-align: right;">Debtor(s).</p>	<p>CASE NO.: 2:12-bk-33061-WB CHAPTER: 13</p>
	<p>ORDER ON MOTION TO AVOID JUNIOR LIEN ON PRINCIPAL RESIDENCE [11 U.S.C. § 506(d)]</p>
	<p>DATE: October 10, 2012 TIME: 1:30 pm COURTROOM: 1375 PLACE: 255 East Temple Street Los Angeles, CA</p>

NAME OF CREDITOR HOLDING JUNIOR LIEN: JPMorgan Chase Bank, N.A.

1. The Motion was: ☐ Opposed ☒ Unopposed ☐ Settled by stipulation
2. The Motion affects the junior trust deed(s), mortgage(s), or other lien(s) encumbering the following real property ("Subject Property"), which is the principal residence of debtor(s):

Street Address: 35950 55th Street East
Unit Number:
City, State, Zip Code: Palmdale, CA 93552

Legal description or document recording number (including county of recording): LOT 46 OF TRACT NO. 44307, IN THE CITY OF PALMDALE, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 1136, PAGES 22 TO 26 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY..

☐ See attached page.

This form is optional. It has been approved for use in the United States Bankruptcy Court for the Central District of California.

3. The Subject Property is subject to the following deed(s) of trust, mortgage(s) or other lien(s) in the amounts specified securing the debt against the Subject Property, which will be treated as indicated:

a. JPMorgan Chase Bank, N.A. in the amount of \$ 367,258.79.

b. JPMorgan Chase Bank, N.A. in the amount of \$ 90,673.08 ☒ is ☐ is not to be avoided;

c. Name of holder of 3rd lien in the amount of \$ Amount of lien ☐ is ☐ is not to be avoided;

☐ See attached page for any additional encumbrance(s).

4. The motion is:

a. ☐ DENIED ☐ with ☐ without prejudice, on the following grounds:

1. ☐ Based upon the findings and conclusions made on the record at the hearing
2. ☐ Unexcused non-appearance by Movant
3. ☐ Lack of proper service
4. ☐ Lack of evidence supporting motion
5. ☐ Other (specify):

b. ☒ GRANTED on the following terms:

- i. The Subject Property is valued at no more than \$ 260,000 based on adequate evidence.
- ii. This avoidance of the respondent's junior lien is effective upon: ☒ completion of the chapter 13 plan, or ☒ receipt of a chapter 13 discharge in this case.
- iii. Before the discharge, no payments are to be made on the secured claim of the junior lienholder; maintenance payments are not to be made.
- iv. The claim of the junior lienholder is to be treated as an unsecured claim and is to be paid through the plan pro rata with all other unsecured claims.
- v. The junior lienholder's claim on the deed of trust, mortgage or lien shall be allowed as a non-priority general unsecured claim in the amount per the filed Proof of Claim. The junior lienholder is not required to, but may file an amended Proof of Claim listing its claim as an unsecured claim to be paid in accordance with the Debtor's chapter 13 plan. If an amended claim is not filed, the Trustee may treat any claim on the debt (secured or unsecured) filed by the junior lienholder as unsecured upon entry of this order.
- vi. The avoidance of the junior lienholder's deed of trust, mortgage or lien is contingent upon: ☒ completion of the chapter 13 plan, or ☒ receipt of a chapter 13 discharge.
- vii. The junior lienholder shall retain its lien in the junior position for the full amount due under the corresponding note and deed of trust, mortgage or lien in the event of either the dismissal of the Debtor's chapter 13 case, the conversion of the Debtor's chapter 13 case to any other chapter under the Bankruptcy Code, or if the Subject Property is sold or refinanced prior to the Debtor's ☒ completion of the chapter 13 plan, or ☒ receipt of a chapter 13 discharge.

- viii. In the event that the holder of the first deed of trust or any senior lien on the Subject Property forecloses on its interest and extinguishes the junior lienholder's lien rights prior to the Debtor's ☒ completion of the chapter 13 plan, or ☒ receipt of a chapter 13 discharge, the junior lienholder's lien shall attach to the proceeds greater than necessary to pay the senior lien, if any, from the foreclosure sale.
- ix. ☐ See attached continuation page for additional provisions.

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Julia W. Brand

DATED: October 31, 2012

United States Bankruptcy Judge

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

**15760 Ventura Blvd, Ste 1100
Encino, CA 91436**

A true and correct copy of the foregoing document entitled: **ORDER ON MOTION TO AVOID JUNIOR LIEN ON PRINCIPAL RESIDENCE [11 U.S.C. § 506(d)]** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) _____, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

NOTE: When using this form to indicate service of a proposed order, DO NOT list any person or entity in this service category. Proposed orders do not generate an NEF.

2. SERVED BY UNITED STATES MAIL: On **10/17/2012**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

**Hon. Julia W. Brand
United States Bankruptcy Court
255 E. Temple Street, Ste 1382
Los Angeles, CA 90012**

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

10/17/2012 **Paul D. Román**

Date Printed Name

/s/ Paul D. Román

Signature

NOTICE OF ENTERED ORDER AND SERVICE LIST

Notice is given by the court that a judgment or order entitled: **ORDER ON MOTION TO AVOID JUNIOR LIEN ON PRINCIPAL RESIDENCE [11 U.S.C. § 506(d)]** was entered on the date indicated as "Entered" on the first page of this judgment or order and will be served in the manner stated below:

1. **SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)** – Pursuant to controlling General Orders and LBRs, the foregoing document was served on the following persons by the court via NEF and hyperlink to the judgment or order. As of **10/17/2012**, the following persons are currently on the Electronic Mail Notice List for this bankruptcy case or adversary proceeding to receive NEF transmission at the email addresses stated below.

- Steven A Alpert steven@pricelawgroup.com, notice@pricelawgroup.com
- Nancy K Curry (TR) ecfnc@trustee13.com
- Benjamin Nachimson bsn@nachimsonlaw.com
- United States Trustee (LA) ustpreion16.la.ecf@usdoj.gov
- Kristin S Webb bknotice@rcolegal.com

☐ Service information continued on attached page

2. **SERVED BY THE COURT VIA UNITED STATES MAIL:** A copy of this notice and a true copy of this judgment or order was sent by United States mail, first class, postage prepaid, to the following persons and/or entities at the addresses stated below:

Juan & Martha Rosas
35950 55th Street East
Palmdale, CA 93552

☐ Service information continued on attached page

3. **TO BE SERVED BY THE LODGING PARTY:** Within 72 hours after receipt of a copy of this judgment or order which bears an "Entered" stamp, the party lodging the judgment or order will serve a complete copy bearing an "Entered" stamp by United States mail, overnight mail, facsimile transmission or email and file a proof of service of the entered order on the following persons and/or entities at the addresses, facsimile transmission numbers, and/or email addresses stated below:

☐ Service information continued on attached page